

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-219—sSB 1181

Judiciary Committee

Human Services Committee

**AN ACT CONCERNING CHILD SUPPORT ENFORCEMENT AND
EXPEDITED ESTABLISHMENT OF PATERNITY AND SUPPORT IN
TITLE IV-D CASES**

SUMMARY: This act makes numerous changes in the statutes governing the Department of Social Services' (DSS) Bureau of Child Support Enforcement (BCSE) and the Judicial Branch's Support Enforcement Services Division (SES). Most are related to child support and support enforcement. The act:

1. requires the DSS commissioner to investigate the financial circumstances of parents applying for or receiving Medicaid on behalf of their children, rather than only Temporary Family Assistance (cash welfare) and foster care applicants and recipients;
2. eliminates a requirement that the financial inquiry be made according to state statute;
3. limits DSS' duty to investigate the finances of parents of children in foster care to those for whom a request is made;
4. eliminates the DSS commissioner's duty to investigate the financial arrangements of those seeking or receiving emergency housing assistance;
5. requires the state to notify obligors (those owing child support) and obligees (those owed child support) when it has redirected child support payments to the state, rather than when it intends to do so;
6. requires DSS to share confidential information with the Department of Correction and state treasurer for limited purposes;
7. permits income withholding orders to be served on state employers electronically if they agree to accept that form of service;
8. modifies the process for obligors to challenge wage withholding orders and eliminates a requirement that they give their employers a copy of the claim form they file to initiate the challenge;
9. eliminates a requirement that court clerks follow in-state procedures for scheduling hearings involving out-of-state wage withholding challenges;
10. substitutes references to SES for references to BCSE in the context of wage withholding challenges;
11. requires SES, not BCSE, to notify only employers who directly received the claim forms challenging wage withholding orders, rather than all affected employers;
12. adds a definition of "issue" for purposes of some wage withholding statutes;
13. allows the DSS commissioner to make wage withholding forms available rather than to distribute them;

OLR PUBLIC ACT SUMMARY

14. specifies document-filing requirements for out-of-state parties;
15. modifies family support magistrates' (FSM) authority;
16. gives judicial marshals limited authority to serve a *capias mittimus* (an order to arrest and bring a person before the court) on certain child support obligors and witnesses in child support cases;
17. allows SES officers to take acknowledgments of parties' settlement agreements incident to child support obligations;
18. fixes unwed mothers' obligations to pay past due child support at three years before the support petition or agreement was filed, the same as applicable to unwed fathers; and
19. eliminates a \$50 fee for an amended birth certificate when paternity is established by court order or paternity acknowledgment.

The act also makes minor, conforming, and technical changes.

EFFECTIVE DATE: October 1, 2011

§ 1 — SUPPORT PAYMENT REDIRECTION

Under prior law, BCSE could redirect child support payments after notifying the obligor and obligee of its intent to do so and giving them the opportunity to object. (This circumstance usually arises when the child is not living with the obligee.)

Under the act, when the money is to be redirected to the state (for example, when the family is receiving cash assistance), BCSE need not give advance notice. Instead, the bureau can notify the obligor and obligee after the fact and then give them the opportunity to object. If the objection is sustained, the bureau must issue a refund.

§§ 11, 4, & 17 — INFORMATION SHARING

Department of Correction and Judicial Branch

The act requires DSS to disclose to authorized representatives of the Department of Correction and the Judicial Branch information on incarcerated parents or those on probation or parole who are responsible for making child support payments. Its purpose is to identify those who may benefit from (1) educational training, (2) skill building, (3) work, or (4) rehabilitation programming that will significantly increase their ability to fulfill their support obligations.

The act specifies assistance in (1) child support enforcement and (2) the identification of family violence cases, as other reasons for sharing information with the Judicial Branch.

Paternity Registry Information

With limited exceptions, including BCSE, the Department of Public Health maintains a confidential paternity registry containing paternity acknowledgments and rescissions. The act allows the bureau to disclose registry information for child support purposes to an agency with whom it has a cooperative agreement

(e.g., the Judicial Branch and state and local law enforcement agencies).

Releasing Information About Obligors Behind In Child Support Payments

The act permits DSS to release information to the state treasurer when a child support enforcement program obligor is behind in his or her support payments. The shared information must be necessary to allow the treasurer to withhold the amount owed from the amount she would otherwise pay out on an abandoned property claim.

By law, when an obligor is more than \$500 in arrears, BCSE or SES may notify various entities likely to have occasion to distribute money to the obligor. Under the act, those who may receive notice include state or local agency officials authorized to hold the obligor's assets or property, including funds or property that is unclaimed or presumed to be abandoned.

§§ 9 & 13 — WAGE WITHHOLDING

Defining "Issue"

The act adds a definition of "issue" that applies to income withholding orders to support children, spouses, and former spouses. It defines the term as (1) completing an income withholding order form and serving it on the employer or other payer or (2) in the case of an income withholding order served electronically, transmitting electronic data sufficient to implement its withholding to an employer that agreed to receive electronic transmittal of such documents.

The act substitutes "enter" for "issue" in some provisions where the use of the term "issue" is inconsistent with the act's definition.

Distribution of Wage Withholding Claim Forms

The act allows DSS to make wage withholding claim forms available to all employers. Previously, DSS had to distribute them. Employers give the forms to employees for whom they have been served wage withholding orders. The form gives the employee information about how (1) the procedures work and (2) to contest the withholding.

Under the act, the form must include (1) BCSE's address (for requesting BCSE resources to reduce the amount of support the obligor must pay) and (2) SES' address (to challenge the wage withholding itself). Under prior law, only the BCSE address had to be given.

Challenges by Out-Of-State Parties

Under prior law, when BCSE received claim forms challenging the validity of a wage withholding order issued at the request of another state, it had to notify the interested parties in Connecticut within seven days of receipt and immediately file the income withholding order and claim form. Under the act, it need not file the withholding order but must notify the entity that sent the order to file, at least 10 days before the first scheduled hearing:

1. two copies of the underlying support order (one of which must be certified)

OLR PUBLIC ACT SUMMARY

- along with any modification and
2. (a) a sworn statement showing the amount of any arrearage owed, (b) the last court determination of an arrearage, and (c) an accounting of the arrearage since the last court determination.

§§ 7, 8, & 13 — FAMILY SUPPORT MAGISTRATES

Support Agreements

The act eliminates FSMs' authority to modify support agreements. If the FSM does not approve them, under the act, the sole option is to disapprove.

The act also requires the FSM to indicate on the record the reasons for disapproving a proposed agreement. The court clerk must then (1) schedule a hearing to determine appropriate support amounts and (2) notify all appearing parties of the hearing date.

FSM Hearings Involving an Out-of-State Party

By law, FSMs must hear and decide cases involving challenges to wage withholding orders directed at Connecticut employers but involving an out-of-state party. The act directs the FSM to use existing special rules of evidence and procedure in interstate cases that take into account the fact that the out-of-state party and witnesses may not be physically present at the hearing. The FSM may also speak to counterparts in the originating state to obtain information about their state laws and the legal effect of their court orders. (Under the state's Uniform Interstate Family Support Act, magistrates must apply the law of the originating state to some procedural and substantive issues.)

Under the act, if the out-of-state child support enforcement agency, court, or other entity fails to supply required documentation or to respond to reasonable requests for documents, the FSM may:

1. extend the hearing for 45 days,
2. order a temporary or partial stay of income withholding for the same period, or
3. sustain the obligor's objection and enjoin the employer from complying with the wage withholding order.

§§ 12, 14, 15, & 18 — JUDICIAL MARSHALS

The act gives a judicial marshal limited authority to serve a *capias mittimus* on anyone already in his or her custody or physically present in the courthouse where the marshal provides security. This authority is restricted to FSM orders to serve a *capias* naming a child support obligor who has been found to be in contempt of court or an obligor or witness who failed to appear at a court hearing of which he or she had notice.

BACKGROUND

Family Support Magistrates

OLR PUBLIC ACT SUMMARY

FSMs are appointed by the governor for three-year terms to hear cases involving paternity and child and spousal support. They are quasi-judicial officers, not judges, but perform some judicial functions. Their jurisdiction extends to child support cases that include both welfare recipients and those who have applied for state help collecting child support.

OLR Tracking: SP:JKL:VR:ts